



Texas Board of Chiropractic Examiners

Thursday, February 24, 2022

BOARD MEETING: 10:00 A.M. – Final Adjournment at 1:28 P.M.

Texas Department of Motor Vehicle Headquarters
4000 Jackson Avenue
Austin, Texas 78731
Lone Star Room

BOARD MEETING MINUTES

The Texas Board of Chiropractic Examiners (Board) met on February 24, 2022, to consider and act as necessary on matters within the jurisdiction of the Board, which are listed on the agenda established for this meeting.

1. Call to Order and Roll Call:

Action Taken: Board President Dr. Mark Bronson called the meeting to order at 10:00 A.M. Board Secretary Dr. Scott Wofford called the roll.

Present Members:

Mark Bronson, D.C.
Michael Henry, D.C.
Scott Wofford, D.C.
Nicholas Baucum, D.C.
Debra White, D.C.
Mindy Neal, D.C.
Brandon Allen, Public Member
Sarah Abraham, Ph.D., Public Member
Joshua Hollub, Public Member

Board Staff Present:

Patrick Fortner, Executive Director
Christopher Burnett, General Counsel
Jennifer Hertsenberg, Director of Operations
Sarah Matthews, Director of Licensing
Norma Rodriguez, Director of Enforcement
Joseph McLaughlin, Staff Attorney
Lisa Agarwal, Staff Services Officer
Scott Parker, Investigator
Chris Beach, Field Investigator



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All nine Board members were present and Dr. Bronson announced that a quorum was established.

2. Discussion and approval of the minutes for the Board meeting held on November 18, 2021:

Action Taken: BAUCUM MOVED and ABRAHAM SECONDED to approve the minutes from the November 18, 2021 Board meeting. The Board **APPROVED** the motion unanimously.

3. President's Report:

Dr. Bronson began by commenting on Governor Abbot's advice to appointed officials at the recent state leadership event.

Dr. Bronson then discussed recent activities of the Board:

- Dr. Bronson announced his appointments of the Board member to the Board's committees and which members would serve as chairs of the committees.
- Dr. Bronson reviewed his continued involvement with the National Board of Chiropractic Examiners (NBCE) and the Federation of Chiropractic Licensing Boards (FCLB) as the Board's representative. He remained actively involved with the NBCE as a chief examiner for the Part 4 Examinations and as the Board's delegate to the NBCE. He also remained actively involved with the FCLB's PACE program to review and audit continuing education courses, and served on the FCLB's finance and audit committee.
- On December 14 and 15, 2021, Dr. Bronson, Mr. Fortner, and Mr. Burnett attended the Government Law and Liability Conference in Austin, Texas, for education on various government agency topics.
- On February 1, 2022, Dr. Bronson, Mr. Burnett, and Mr. McLaughlin represented the Board at a stakeholder meeting regarding proposed changes to the Board's scope of practice rule. The Texas Chiropractic Association and Texas Medical Association were also represented.

Dr. Bronson then announced future events:

- The FCLB and NBCE's annual meetings are scheduled for May 5-7, 2022, in Denver, Colorado. Several Board members are planning to attend along with Mr. Fortner and Mr. Burnett if possible. Dr. Bronson requested the Board nominate him to serve as the Board's voting delegate and Dr. Wofford as an alternate delegate.

Action Taken: BAUCUM MOVED and HENRY SECONDED to nominate Dr. Bronson to serve as the Board's voting delegate and Dr. Wofford to serve as an alternate delegate to the FCLB and NBCE at their annual meetings. The Board **APPROVED** the motion unanimously.

- On May 14 and 15, 2022, the NBCE Part 4 examinations are scheduled to be held at Parker University in Dallas, Texas. Dr. Bronson is scheduled to serve as the chief examiner. Dr. Bronson mentioned the importance of the participation of the Board members in the NBCE examination process. Dr. Neal volunteered to serve as an examiner at the May examinations.

4. Board Committee Reports:

a. Rules Committee

- Dr. Henry provided an overview of the rules to be discussed at the day's meeting.

b. Enforcement Committee

- Dr. Baucum reported that 27 cases were reviewed at the previous day's Enforcement Committee (EC) meeting to determine whether any laws under the Board's jurisdiction were violated.
- He discussed his visit to Parker University students with Dr. Wofford to educate them on potential enforcement pitfalls.
- He noted the committee's desire to attempt regulation of practice management groups if possible, due to the increasing number of complaints alleging billing fraud or scope of practice violations by doctors who are attending practice management seminars and receiving incorrect legal advice. He highlighted cases involving stem cells and P-Stim acupuncture devices in multi-disciplinary practices as recent examples.
- Dr. Baucum then invited Dr. Bronson to address the Board regarding the improper use of the term "board certified" among the licensee population. Dr. Bronson discussed ongoing efforts by the FCLB to create a national database of accredited certifying institutions and boards. Dr. Baucum suggested a change to the Board's advertising rules that would require licensees to only advertise board certifications from such a database.
- Dr. Baucum also proposed that Board members start randomly attending and auditing continuing education (CE) courses to ensure that topics outside the Texas scope of practice or other potentially unlawful practices are being properly addressed.

c. Education Standards Committee

- Dr. White welcomed Mr. Allen and Dr. Neal's presence on the committee and reviewed the minutes she prepared from the committee's recent meeting. She reported on the committee's discussion of the continuing education requirements regarding acupuncture permits and its conclusion that there is no need for a rule change at this time.

d. Licensing Committee

- Dr. Abraham had nothing to report.

5. Executive Director and Staff Reports:

a. Executive Director

- Mr. Fortner began by thanking the Board members and staff for their dedication to the agency.
- Mr. Fortner discussed the timeline for drafting the agency's next strategic plan.
- Mr. Fortner reported that the database update is proceeding on schedule and noted that he expected the new database to be more stable and have increased functionality.
- Mr. Fortner noted that licensee feedback at the recent Texas Chiropractic Association meeting indicated an increased preference for online Board meetings among the licensee

population. He hoped that the Board would have the resources and capabilities to put on hybrid meetings in the future.

- He mentioned that the Board members should expect information from the Ethics Commission regarding their personal financial statements in the coming weeks.
- Finally, Mr. Fortner congratulated Ms. Matthews on her 10 year anniversary with the Board.

b. Director of Operations

- Ms. Hertsenberg discussed the financial report through January 31, 2022. She noted that the agency is on target with its revenues and expenditures.
- Dr. Neal asked what date the move to the new George H.W. Bush building was expected. Ms. Hertsenberg reported that a projected date of June 10 had been discussed with the Texas Facilities Commission.

c. Director of Licensing

- Ms. Matthews presented the licensing report comparing the first quarters of Fiscal Year (FY) 2021 and FY 2022. She discussed the imbalance in license renewals caused by the shift to the biennial renewal cycle.

d. Director of Enforcement

- Ms. Rodriguez reported that 40 cases had been closed in the last reporting period with an average time required to close of 300 days. She reported that there are 26 cases currently pending legal resolution.

6. Public Comment:

There were no public comments.

7. Discussion of the Board's duty to assess the continuing education needs of licensees and to adopt requirements for mandatory continuing education under Texas Occupations Code §201.356:

Dr. Bronson introduced the topic by offering his analysis of Texas Occupations Code §201.356's requirement that the Board assess the continuing education needs of licensees. Dr. Bronson noted a specific reference to sanitary conditions and suggested the Education Standards Committee consider whether required CE hours need any sort of emphasis on sanitary conditions. Dr. Neal asked whether CE topics are sometimes reactions to issues noticed during the enforcement process and Dr. Bronson noted that they can be. Dr. Baucum reported that most complaints regarding sanitary conditions in clinics do not result in enforcement action.

Dr. Bronson then discussed the NBCE's *Chiropractic Practice Analysis of 2020* results and noted that 65% of chiropractors nationwide focus their practice on "wellness and maintenance of health." He suggested this be a potential consideration for the Education Standards Committee moving forward.

8. Discussion of possible efforts by the Board to increase licensee participation in Board meetings:

Dr. Bronson introduced the subject and invited Mr. Hollub to discuss his previous involvement with another licensing board on the subject. Mr. Hollub noted the advantages of having licensees attend Board meetings to familiarize themselves with rulemaking and disciplinary processes.

Dr. Henry asked whether CE credits could be awarded for Board meeting attendance. Mr. Burnett stated that he didn't believe there would be any legal impediment for doing so.

There was much discussion among the members of how such a concept could be implemented. Mr. Hollub asked some general questions about the CE accreditation process.

9. Discussion of the possible inclusion of items in the Board's next strategic plan to be prepared for the next session of the Texas Legislature:

Mr. Fortner discussed some of the details of what he planned to include in the report and invited the Board members to provide feedback. He discussed certain aspects of the state's budget processes and noted a desire to add an independent clinical director to staff to analyze standard of care and scope of practice questions for both CE and enforcement functions at the staff level. Mr. Fortner also discussed a request to the Legislature to allow the agency to keep a greater share of revenue to spend on increasing staffing and staff retention.

10. Discussion and action on requests to sit for the Texas Jurisprudence Examination pursuant to Texas Occupations Code §201.304(a)(2):

a. Jason Yuen

Ms. Matthews presented the applicant's criminal history to the Board. The staff recommendation was to allow the applicant to take the Texas Jurisprudence Examination after taking and passing the Ethics and Boundaries Assessment Services (EBAS) Examination's fraud, unprofessional conduct, and professional standards sections at his expense.

Action Taken: HENRY MOVED and WOFFORD SECONDED to grant the applicant's request without requiring passage of the suggested EBAS examination sections. The Board **APPROVED** the motion unanimously.

b. Zee Okunna

Ms. Matthews presented the applicant's criminal and Board disciplinary history to the Board.

The applicant addressed the Board and accepted responsibility for his past actions. He discussed changes he had made to his life and the lessons he had learned in his attempts to give back to society. He also detailed some of his community service involvement and court mandated training he had undergone as a result of his criminal convictions. The Board members asked him some additional clarifying questions.

The Board members requested that staff discuss their concerns with granting the application. Mr. Parker and Ms. Rodriguez discussed the origin of the Board's enforcement case against the

applicant, his response to the evidence offered against him at the State Office of Administrative Hearings (SOAH), and his conduct after his license revocation became final.

Action Taken: HENRY MOVED and ALLEN SECONDED to deny the applicant's request. The Board **APPROVED** the motion unanimously.

c. Victor Strickland

Ms. Matthews presented the applicant's criminal history to the Board.

Action Taken: HENRY MOVED and BAUCUM SECONDED to grant the applicant's request. The Board **APPROVED** the motion unanimously.

d. Curtis Fischer

Ms. Matthews presented the applicant's disciplinary history to the Board. The staff recommendation was to allow the applicant to take the Texas Jurisprudence Examination with no stipulations.

Dr. Baucum and Dr. Bronson requested the applicant address the Board to discuss his prior disciplinary history. The applicant discussed the entire experience from start to finish in some detail.

Action Taken: HENRY MOVED and WOFFORD SECONDED to accept the staff recommendation. The Board **APPROVED** the motion unanimously.

e. Phillip Oller

Ms. Matthews presented the applicant's criminal and application history to the Board.

Action Taken: HENRY MOVED and ABRAHAM SECONDED to deny the applicant's request. The Board **APPROVED** the motion unanimously.

Action Taken: At 11:26 A.M., Dr. Bronson allowed for a short break.

Action Taken: At 11:44 A.M., Dr. Bronson reconvened the meeting.

11. Discussion and action on proposed agreed orders pursuant to Texas Occupations Code §201.504(a)(1):

a. Gideon Tyrel Traweek, License No. 10322, TBCE Case No. 2019-256

Mr. McLaughlin presented the proposed agreed order. The staff recommendation was that the Board approve the agreed order.

Action Taken: BAUCUM MOVED and WOFFORD SECONDED to approve the agreed order. The Board **APPROVED** the motion unanimously.

b. Karim Ahmed Eissa, License No. 13008, TBCE Case No. 2019-269

Mr. McLaughlin presented the proposed agreed order. The staff recommendation was that the Board approve the agreed order.

Action Taken: BAUCUM MOVED and HOLLUB SECONDED to approve the agreed order. The Board **APPROVED** the motion unanimously.

c. Natalie Ann Hair, License No. 12360, TBCE Case No. 2019-301

Mr. McLaughlin announced that this item was moot as the case had already been resolved separately.

d. Donna S. Sanders, License No. 5625, TBCE Case Nos. 2019-263, 2020-064, 2020-074

Mr. McLaughlin presented the proposed agreed order. The staff recommendation was that the Board approve the agreed order.

Action Taken: BAUCUM MOVED and WOFFORD SECONDED to approve the agreed order. The Board **APPROVED** the motion unanimously.

e. Ross Christopher Baird, License No. 13699, TBCE Case No. 2020-079

Mr. McLaughlin presented the proposed agreed order. The staff recommendation was that the Board approve the agreed order.

Action Taken: BAUCUM MOVED and WOFFORD SECONDED to approve the agreed order. The Board **APPROVED** the motion unanimously.

f. Grant Arthur Stowell, License No. 8184, TBCE Case No. 2020-111

Mr. McLaughlin announced that this item would need to be tabled until the next Board meeting.

g. Stanley Edward French, License No. 6672, TBCE Case No. 2020-119

Mr. McLaughlin presented the proposed agreed order. The staff recommendation was that the Board approve the agreed order.

Action Taken: BAUCUM MOVED and NEAL SECONDED to approve the agreed order. The Board **APPROVED** the motion unanimously.

h. Jeffrey Garth Goodwin, License No. 7982, TBCE Case No. 2020-191

Mr. McLaughlin presented the proposed agreed order. The staff recommendation was that the Board approve the agreed order.

Action Taken: BAUCUM MOVED and NEAL SECONDED to approve the agreed order. The Board **APPROVED** the motion unanimously.

i. Ricky Lee Hanks, License No. 4451, TBCE Case No. 2020-211

Mr. McLaughlin announced that this item would need to be tabled until the next Board meeting.

j. Minh-Duy Kim Lam, License No. 7405, TBCE Case No. 2020-213

Mr. McLaughlin announced that this item would need to be tabled until the next Board meeting.

k. Bao Vuong Thai, License No. 10398, TBCE Case No. 2021-016

Mr. McLaughlin announced that this item would need to be tabled until the next Board meeting.

12. Discussion and action on proposing a new Board rule, 22 TAC §79.5 (Associating with an Unlicensed Individual):

Mr. Burnett introduced the item and discussed staff's concern about the association in the practice of chiropractic of licensees who have surrendered their chiropractic licenses in lieu of discipline. This rule proposal would address that concern. The staff recommendation was for the Board to propose the new rule as discussed.

Dr. Wofford asked about the Board's authority to exercise jurisdiction over convicted felons regarding the ownership of chiropractic clinics. Dr. Henry made some suggestions to narrow the scope of the proposal. The Board members agreed to insert the word "knowingly" into the proposal.

Action Taken: HENRY MOVED and WOFFORD SECONDED to propose the new rule 22 Texas Administrative Code §79.5 as discussed. The Board **APPROVED** the motion unanimously.

13. Discussion and action on proposing the amendment of 22 TAC §80.1 (Duty to Respond to Complaint):

Mr. Burnett explained that this proposal would reduce the agency's expenditures for registered or certified mail and remove a potential procedural issue. The staff recommendation was for the Board to propose the amendment as discussed.

Action Taken: WOFFORD MOVED and NEAL SECONDED to propose the amendment of 22 Texas Administrative Code §80.1 as discussed. The Board **APPROVED** the motion unanimously.

14. Discussion and action on proposing the amendment of 22 TAC §80.3 (Disciplinary Guidelines):

Mr. Burnett explained that this proposal would create an additional violation for licensees who fail to comply with the terms of an agreed order. The staff recommendation was for the Board to propose the amendment as discussed.

Action Taken: HENRY MOVED and WOFFORD SECONDED to propose the amendment of 22 Texas Administrative Code §80.3 as discussed. The Board **APPROVED** the motion unanimously.

15. Discussion and action on proposing the amendment of 22 TAC §81.2 (Notice of Enforcement and Other Hearings):

Mr. Burnett explained that this proposal would eliminate the need to mail notices of SOAH hearings by certified mail. The staff recommendation was for the Board to propose the amendment as discussed.

Action Taken: HENRY MOVED and ALLEN SECONDED to propose the amendment of 22 Texas Administrative Code §81.2 as discussed. The Board **APPROVED** the motion unanimously.

16. Discussion and action on proposing a new Board rule, 22 TAC §82.4 (Family Leave Pool):

Mr. Burnett noted that this rule proposal was in response to a recent Legislative change. The staff recommendation was for the Board to propose the new rule as discussed.

Action Taken: BAUCUM MOVED and ABRAHAM SECONDED to propose the new rule 22 Texas Administrative Code §82.4 as discussed. The Board **APPROVED** the motion unanimously.

Action Taken: At 12:25 P.M., Dr. Bronson allowed for a short break.

Action Taken: At 12:31 P.M., Dr. Bronson reconvened the meeting

17. Discussion and action on adopting the repeal and replacement of 22 TAC §78.1 (Scope of Practice):

Action Taken: The Board entered a closed session pursuant to Texas Government Code §551.071 to receive legal counsel regarding Agenda Items 17 and 21 from 12:36 P.M. until 1:15 P.M. All others present left the meeting room.

Action Taken: Dr. Bronson reconvened the open meeting at 1:17 P.M.

The Board took no action on this item.

18. Discussion and action on adopting the repeal and replacement of 22 TAC §78.2 (Prohibitions on the Scope of Practice):

Mr. Burnett explained that this action would simply transfer a provision from the scope of practice rule to the prohibitions rule. The staff recommendation was for the Board to adopt the repeal and replacement as published in the Texas Register.

Action Taken: BAUCUM MOVED and HOLLUB SECONDED to adopt the repeal and replacement of 22 Texas Administrative Code §78.2 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

19. Discussion and action on adopting the repeal and replacement of 22 TAC §78.3 (General Delegation of Responsibility):

The staff recommendation was for the Board to adopt the repeal and replacement as published in the Texas Register.

Action Taken: WOFFORD **MOVED** and BAUCUM **SECONDED** to adopt the repeal and replacement of 22 Texas Administrative Code §78.3 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

20. Discussion and action on adopting proposed new Board rule 22 TAC §78.6 (Required Diligence in the Practice of Chiropractic):

Mr. Burnett explained that this action would split the contents of the diligence rule into two separate rules. The staff recommendation was for the Board to adopt the proposed new rule as published in the Texas Register.

Action Taken: ABRAHAM **MOVED** and ALLEN **SECONDED** to adopt the proposed new rule 22 Texas Administrative Code §78.6 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

21. Discussion and action on adopting proposed new Board rule 22 TAC §78.9 (Instrumented Vestibular-Ocular-Nystagmus Testing):

The Board took no action on this item.

22. Discussion and action on adopting the repeal and replacement of 22 TAC §79.2 (Lack of Diligence):

Mr. Burnett explained that this action would split the contents of the diligence rule into two separate rules. The staff recommendation was for the Board to adopt the repeal and replacement as published in the Texas Register.

Action Taken: HENRY **MOVED** and BAUCUM **SECONDED** to adopt the repeal and replacement of 22 Texas Administrative Code §79.2 as published in the Texas Register. The Board **APPROVED** the motion unanimously.

23. Requests from Board members for future agenda items:

Dr. Baucum suggested a rule proposal prohibiting stem cells in chiropractic. Dr. Bronson charged the Rules Committee with considering the issue.

24. Adjournment:

Action Taken: HOLLUB **MOVED** and BAUCUM **SECONDED** to adjourn the meeting at 1:28 P.M. The Board **APPROVED** the motion unanimously.

STATEMENT: I affirm that the above is a true and correct rendering of the minutes for the Texas Board of Chiropractic Examiners Board Meeting held on the above date. The minutes from the Board Meeting held on November 18, 2021, were **APPROVED** by the Texas Board of Chiropractic Examiners at its regularly scheduled meeting held on February 24, 2022.



February 28, 2022

Patrick Fortner
Executive Director
Texas Board of Chiropractic Examiners

Date